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COMMITTEE ON THE RIGHTS OF THE CHILD

Ninth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Nicaragua

1. The Committee considered the initial report of Nicaragua (CRC/C/3/Add.25) at its 211th to 213th meetings (CRC/C/SR.211-213), held on 22 and 23 May 1995, and adopted* the following concluding observations:

A. Introduction

2. The Committee takes note that the problems facing children in Nicaragua are frankly expressed in the report of the State party. The Committee is of the view that the dialogue with the Government and its representatives, including through their written and oral responses to questions posed by the Committee, is constructive and valuable in clarifying the measures being taken and considered for the implementation of the Convention.

B. Positive factors

3. The Committee notes that the Government recognizes that major efforts are required to address the serious problems facing children in the State party. The Committee shares the opinion of the State party that social and economic development in addition to legislative reform are required to improve the situation of children. In this connection, the Committee notes that at the national level the Government has included the situation of children as a topic on its agenda on social development and that at the local level initiatives have been taken by the mayors of towns to allocate further resources to the educational sector.

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* At the 233rd meeting, held on 9 June 1995.

4. With respect to legislative reform, the Committee takes note, in particular, of the State party's consideration of the possibility of amending the Constitution to include a provision which would afford constitutional status to the Convention on the Rights of the Child. It is also noted that the National Assembly of Nicaragua has sponsored major changes in some laws which relate to the sexual abuse of women and children and that it is engaged in a comprehensive examination of various laws affecting children so as to ensure their compatibility with the provisions of the Convention.

5. The Committee welcomes the establishment in 1994 of the National Commission for the Promotion and Defence of the Rights of Children and the proposed creation of an Office of Ombudsman for Children. It also notes with satisfaction that the National Commission has contacts with the Nicaraguan Coordinating Body for Non-Governmental Organizations Assisting Children and that this is seen as facilitating the coordination and carrying out of various overall plans and events which have an impact on children.

6. The Committee notes with appreciation that the State party views the obligation to report under the Convention as an opportunity to prepare a document and to engage in a dialogue which would serve as reference points and a source of inspiration for the taking of more concrete action in regard to children.

C. Factors and difficulties impeding the implementation of the Convention

7. The Committee recognizes that natural disasters and the years of internal conflict have had serious negative consequences for the situation of children and families in Nicaragua.

8. The Committee is aware that as Nicaragua has one of the highest external debts in the world, the burden of debt repayment is particularly heavy. The Committee also notes that Nicaragua is one of the poorest countries in Latin America where unemployment and underemployment affects almost 60 per cent of the population and where more than 70 per cent of the population is living in poverty with almost 25 per cent living in extreme poverty. In view of this reality, as well as the fact that over 50 per cent of the population of Nicaragua is under 18, the Committee notes that these factors provide further indications of the difficulties confronting children in Nicaragua.

D. Principal subjects of concern

9. The Committee is concerned that traditional cultural attitudes towards children and their role in the family and society may contribute to hampering the implementation of the Convention. In this connection, the Committee notes that an understanding of children as a subject of rights does not appear to be fully reflected in legislative and other measures in the State party and as a result may prevent children in Nicaragua from fully enjoying their fundamental rights as recognized in the Convention.

10. The Committee notes with concern that there is a lack of awareness and understanding in the country of the principles and provisions of the Convention. This lacuna is also reflected in the absence of a distinct child rights component in training programmes for professional groups working with or for children.

11. The Committee remains concerned at the apparent lack of sufficient coordination of the various efforts to implement the Convention.

12. The Committee also views the inadequacy of mechanisms to gather and analyse statistical and other information relating to different groups of children, including indigenous children, girl children and children living in poverty, as a major problem to ensuring the effective monitoring of the implementation of the Convention.

13. The Committee notes with concern the lack of full conformity of present and proposed national legislation with matters relating to the legal definition of the child. It is the Committee's view that the early and lower marriageable age for girls as compared with boys raise the serious questions as to their compatibility with the principles and provisions of the Convention, in particular those laid down in its articles 2, 3 and 6.

14. The legislative reforms setting the age of completion of education at 12 years, and the minimum age for employment at 14 years, rendering children between the ages of 12 and 14 vulnerable to the risk of economic exploitation raise considerable concerns in the Committee.

15. The Committee remains concerned about the apparent persistence of discriminatory attitudes directed towards girls, children born out of wedlock, children from poorer income groups and children belonging to minority and indigenous groups.

16. The Committee is concerned about the continuing difficulties encountered in ensuring the birth registration of children, particularly at the rural level. The registry of all children is necessary, in particular, to ensure their recognition as persons before the law and the fuller enjoyment of their rights and, in general, to facilitate the effective monitoring of the situation of children and thus assist in the development of suitably appropriate and targeted programmes.

17. The Committee shares the concern expressed by the State party about the fact that children are often abused in the media to the detriment of their personality and status as minors.

18. The Committee is concerned about the adequacy of measures taken to ensure that the conditions in institutions caring for children are regularly monitored and supervised. Equally, the Committee remains concerned about the sufficiency of measures taken to implement the provisions of the Convention relating to adoption, particularly inter-country adoption, and with respect to combating trafficking in children.

19. The Committee is concerned about the relatively high maternal mortality rate, especially as it affects young girls, in Nicaragua. It also notes that clandestine abortions and teenage pregnancies appear to be a serious problem in the country.

20. The Committee notes that Nicaraguan women on average give birth to five children, that the percentage of single parent households is comparatively high, that families have difficulties in ensuring an adequate standard of living for their children, and that there are children in Nicaragua who suffer from stunting and malnutrition.

21. The Committee remains worried about the sufficiency of measures being taken to improve access to education and to reduce the high rates of school drop-out and repetition of classes.

22. The Committee is deeply concerned about the problems of abuse and violence which persist in the family and society in general. In view of this reality, the adequacy of measures to prevent such abuse and violence, to respond to children's reports of their abuse, to safeguard children who report abuse and to prevent the impunity of those who have committed abuse against children, remain a matter of considerable concern to the Committee.

23. The Committee expresses its concern about the implementation of the provisions and principles of the Convention in relation to the administration of juvenile justice. The Committee notes the absence of measures to create a juvenile justice system moulded to the needs and protecting the rights of children. In this regard, it is concerned that as mechanisms for alternative treatment are lacking, the system currently in place appears to be unable to respond to the needs of children below the age of 15 who have behavioural problems. Similarly, with respect to the situation of 15- to 18-year-olds who find themselves involved with the administration of justice system, there appears to be an absence of alternative measures to detention for such children and to difficulties in ensuring the separation of juveniles from adults in prisons. The Committee also takes note of the information contained in the State party report which highlights the problems associated with the lack of sufficient training in children's rights of law enforcement officials which has contributed to infringements of the rights of the child being committed.

24. With respect to child exploitation, the Committee is concerned that child labour remains a serious problem in Nicaragua, especially in view of the high level of adult unemployment existing in the country. It is concerned about the apparent inadequacy of measures to address this issue, including for the many children working in the informal sector, including in domestic service, where no effective mechanisms appear to exist for the protection of children engaged in such work.

25. The Committee expresses its grave concern that an increasing number of children who make a living by selling and begging on the streets are especially vulnerable to sexual exploitation.

E. Suggestions and recommendations

26. The Committee recommends that, within the context of the legal reform presently being undertaken by the Government of Nicaragua, national legislation be made compatible with the principles and provisions of the Convention. Such reform should address the concerns raised by the Committee during its discussions with the State party, including with regard to matters relating to the legal definition of the child. With respect to the matter of the status of the Convention in national legislation, the Committee would like to encourage the State party to pursue its consideration of according constitutional status to the Convention.

27. The Committee is of the view that further attention and priority should be given to establishing an effective system of coordinating the implementation of the Convention. In this regard, the Committee would like to suggest that the National Commission for the Promotion and Defence of the Rights of Children be strengthened.

28. The Committee recommends that measures be taken to improve the system for collecting statistical and other data about the status of children. The Committee would also like to indicate that the development of such mechanisms would provide an important opportunity for raising awareness of the implications of the ratification of the Convention on the Rights of the Child and its effective implementation.

29. The Committee would also like to express the hope that the Office of an Ombudsman for Children be created with a view to promoting and protecting the rights of the child.

30. The Committee recommends that the State party consider using the Convention as a tool for the prevention of violence and abuse. One way to achieve this, the Committee suggests, is by teaching children to defend their rights and for trained individuals working with and for children to transmit the values of the Convention to children. Thus, the Committee recommends that education about the Convention be incorporated into non-formal and formal educational curricula and into training and retraining programmes for professionals working with or for children, including teachers, health workers, social workers, judges and law enforcement officials.

31. The Committee suggests that the Government develop public campaigns on the rights of the child with a view to effectively addressing the problem of persisting discriminatory attitudes and practices against particular groups of children such as girl children, children belonging to a minority or indigenous group and poor children. It is also suggested that further proactive measures be developed to improve the status of these groups of children.

32. With respect to article 4, and notwithstanding the economic difficulties faced by the State party, the Committee recognizes that more substantial budgetary allocations are required to increase the coverage and quality of services for children, with particular attention being paid to the most vulnerable groups of children, in the light of articles 2 and 3 of the

Convention. In this regard, the Committee wishes to encourage and express its support for initiatives designed to facilitate international cooperation in assisting the State party to meet its obligations under the Convention.

33. With respect to the implementation of articles 12, 13 and 15 of the Convention, the Committee recommends that consideration be given to extending and broadening the involvement of children in the initiatives being undertaken within the State party to facilitate children's participation in decisions affecting them.

34. The Committee recommends that, on an urgent basis, measures be taken to ensure the protection of the child from information and material injurious to his or her well-being and to protect the child's right to privacy, in light of the provisions of articles 16 and 17 of the Convention.

35. The Committee recommends that the State party consider the possibility of focusing its attention on the organization of a more comprehensive and coordinated campaign in order to address the interrelated family and social-related problems of: the high number of family separations, the relatively high maternal mortality rate and teenage pregnancies, the number of children who are victims of violence or abuse, and the rising number of children living or begging on the street who are at risk of sexual exploitation.

36. The Committee expresses the hope that the State party will consider the possibility of ratifying the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

37. In view of the general problems which exist with regard to the health status of the population, particularly children, the Committee suggests that the provision of primary health care be emphasized, with family planning services and knowledge of nutrition as two of its major components, and that strategies be developed to provide families with the necessary technical and other support to grow their own food.

38. The Committee suggests that greater efforts should be directed to developing low-cost but effective strategies to increase substantially the enrolment and attendance rates of children in education and to improve the quality and appropriateness of education. The introduction of such measures would assist in further signalling the commitment which exists to attracting children to attend school as well as to convincing families of the value of education. It is also suggested that the Government consider extending the provision of compulsory education to nine years of schooling, thereby ensuring at the same time that the age of completion of compulsory education would be harmonized with the minimum age for employment. In light of the recent launching of the United Nations Decade for Human Rights Education, the Committee encourages the State party to consider using this opportunity to promote the incorporation of education about the Convention in curricula for schoolchildren, it being understood that the children would be taught about their rights by suitably trained and qualified teachers.

39. The Committee recommends that an administration of juvenile justice system be established in line with the relevant provisions of the Convention, in particular its articles 37, 39 and 40, and in light of other related

international instruments. In this connection, the Committee wishes to emphasize the importance and relevance of the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) which envisage and call for the strengthening and supporting of the vital role of the family and community in order to help eliminate the social conditions leading to such problems as delinquency, crime and drug addiction and to assist the families and communities facing such problems.

40. It is the view of the Committee that legal reforms and a preventive campaign should be urgently introduced to address the issue of child labour. The Committee would like to suggest that the Government of Nicaragua consider requesting further technical assistance from ILO in these matters.

41. The Committee welcomes the invitation addressed to the Committee to visit Nicaragua. The Committee proposes that the State party prepare a publication of the report of Nicaragua, the summary records of the discussion with the State party and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring both within the Government and the general public, including with the concerned non-governmental organization community.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Canada

1. The Committee considered the initial report of Canada (CRC/C/11/Add.3) at its 214, 215, 216 and 217 meetings (CRC/C/SR.214 to 217), held on 24 and 26 May 1995, and adopted * the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for its comprehensive report, which follows the Committees's guidelines, and for engaging, through a high-ranking delegation, in a constructive and frank dialogue with the Committee. The Committee welcomes the written information provided by the delegation of Canada in reply to the questions included in the list of issues (CRC/C.9/WP.1) which were communicated to it before the session, as well as the additional information provided during the course of the discussion, which enabled the Committee to better assess the situation of the rights of the child in Canada. The Committee further welcomes the additional written information submitted by the State party following the dialogue held with the Committee.

* At the 233rd meeting, held on 9 June 1995.

B Positive factors

3. The Committee appreciates the State party's firm commitment to adopting further measures for the implementation of the rights of the child as recognized in the Convention. The Committee considers especially noteworthy the fact that Canada played a leading role in the drafting process of the Convention on the Rights of the Child and in convening the 1990 World Summit for Children.

4. The Committee notes with satisfaction the general strengthening of the protection of human rights, particularly children's rights, through the Canadian Charter of Rights and Freedoms and through the adoption of legislative measures in the field of children's rights. The Committee also welcomes the establishment of the National Council for Crime Prevention which specifically purports to better implement the Convention provisions in the area of juvenile justice.

5. The Committee further welcomes the establishment of the Children's Bureau following the World Summit for Children and its role in ensuring that the Convention is taken into account in government policies, as well as in enabling consultations between the authorities and the private and voluntary sectors. The Committee notes with satisfaction the numerous activities undertaken to disseminate information relating to the Convention.

6. The Committee welcomes the commitment expressed by the Delegation to adopt measures to face increasing poverty and reduce existing disparities, in spite of difficulties arising from the present economic recession. The Committee notes in this regard the establishment of the Family Support Enforcement Fund intended to help provincial and territorial governments in the field of promotion and protection of children's rights.

7. The Committee welcomes specific action taken by schools and local community services to identify children's disabilities at an early stage.

8. The Committee also takes note of the efforts made by Canada in participating in international projects in co-operation with UNICEF and other governmental or international non-governmental organizations.

C Principal subjects of concern

9. The Committee, while taking note of the statement, reflected in the report of the State party, that the federal nature of Canada is a complicating factor in the implementation of the Convention, and that the exact division of responsibilities between federal, provincial and territorial governments over matters affecting children may involve an element of uncertainty, stresses that Canada is bound to observe fully the obligations assumed by ratifying the Convention. The Committee is concerned that sufficient attention has not been paid to the establishment of a permanent monitoring mechanism that will enable an effective system of implementation of the Convention in all parts of the country. Disparities between provincial or territorial legislation and practices which affect the implementation of the Convention are a matter of concern to the Committee. It seems, for instance, that the definition of the legal status of the children born out of wedlock being a matter of provincial

responsibility may lead to different levels of legal protection of such children in various parts of the country.

10. The Committee notes with concern that the State party made reservations to articles 21 and 37 (c) of the Convention.

11. The Committee expresses its concern about the value of the Convention in domestic law. Certain basic provisions and principles of the Convention, particularly those relating to non-discrimination, the best interests of the child and the respect for the views of the child, have not always been adequately reflected in national legislation and policy-making.

12. The Committee is concerned by the emerging problem of child poverty, especially among vulnerable groups. It is also worried by the increasing number of children who are brought up by single parent families, or in other problematic environments. While appreciating the programmes already set up, the Committee emphasizes the need for special programmes and services to provide the necessary care, especially in terms of education, housing and nutrition, for such children.

13. The Committee recognizes the efforts made by Canada for many years in accepting a large number of refugees and immigrants. Nevertheless, the Committee regrets that the principles of non-discrimination, of the best interests of the child and of the respect for the views of the child have not always been given adequate weight by administrative bodies dealing with the situation of refugee or immigrant children. It is particularly worried by the resort by immigration officials to measures of deprivation of liberty of children for security or other related purposes and by the insufficient measures aimed at family reunification with a view to ensuring that it is dealt with in a positive, humane and expeditious manner. The Committee specifically regrets the delays in dealing with reunification of the family in cases where one or more members of the family have been considered eligible for refugee status in Canada as well as cases where refugee or immigrant children born in Canada may be separated from their parents facing a deportation order.

14. Further measures seem to be needed to effectively prevent and combat all forms of corporal punishment and ill-treatment of children in schools or in institutions where children may be placed. The Committee is also preoccupied by the existence of child abuse and violence within the family and the insufficient protection afforded by the existing legislation in that regard.

15. The Committee further notes the urgent need to ensure adequate protection of children from harmful information, and particularly from television programmes inciting or containing violence.

16. The increasing incidence of suicide among young people is an additional cause for concern.

17. While recognizing the steps already taken, the Committee notes with concern the special problems still faced by children from vulnerable and disadvantaged groups, such as aboriginal children, with regard to the

enjoyment of their fundamental rights, including access to housing and education.

D. Suggestions and recommendations

18. The Committee wishes to encourage Canada to review its reservations to the Convention and to consider the possibility of withdrawing them, and would like to be kept informed of developments on this fundamental matter.

19. The Committee encourages the State party to pursue and develop its policy aimed at disseminating information and increasing public awareness of the Convention. It recommends that a nationwide education campaign be launched, in the framework of the United Nations Decade for Human Rights Education, to sensitize the population at large - including children themselves - to the principles and provisions of the Convention, and that consideration be given to incorporating the rights of the child in the school curricula. At the same time, the State party should integrate the Convention into the training curricula for professional groups dealing with children, especially judges, lawyers, immigration officers, peace-keepers and teachers.

20. The Committee recommends that the State party strengthen the cooperation between mechanisms existing in its legal and administrative framework and enhance the coordination between federal, provincial and territorial authorities in the field of children's rights with a view to eliminating any possibility of disparity or discrimination in the implementation of the Convention and ensuring that the Convention is fully respected in all parts of its territory. The Committee also recommends that emphasis be placed on federal monitoring mechanisms - such as the Committee of Officials on Human Rights - with a view to making them more effective. The establishment of a comprehensive network for the collection of data covering all areas of the Convention and taking into account all groups of children within Canadian jurisdiction is recommended. Cooperation in the field of the rights of the child between the authorities and non-governmental organizations as well as aboriginal communities should also be further strengthened.

21. The Committee encourages the Government of Canada to ensure the full implementation of article 4 of the Convention in the light of the general principles of the Convention, in particular the best interests of the child. Available resources should be allocated to their maximum extent to ensure the implementation of economic, social and cultural rights. The Committee also emphasizes the need to take immediate steps to tackle the problem of child poverty and make every feasible effort to ensure that all families, particularly single parent families, have adequate resources and facilities.

22. The Committee also encourages the State party to use the principles and provisions of the Convention as a framework for the programme of international development assistance.

23. In view of the fact that the Convention can only be referred to before the courts as a means of interpretation of national legislation, the Committee recommends that further steps be taken to ensure the effective implementation of the Convention at the national level. In this regard, the Committee also wishes to emphasise the importance of taking action to ensure that the general

principles of the Convention, particularly those relating to non-discrimination, the best interests of the child and the respect for the views of the child as guaranteed under articles 2, 3, and 12 respectively, are reflected in domestic law. With regard to article 12 in particular, it is recommended that children be provided with the opportunity to be heard in judicial and administrative proceedings.

24. The Committee recommends that the State party pay particular attention to the implementation of article 22 of the Convention as well as of the general principles of the Convention, in particular the best interests of the child and respect for his or her views, in all matters relating to the protection of refugee and immigrant children, including in deportation proceedings. The Committee suggests that every feasible measure be taken to facilitate and speed up the reunification of the family in cases where one or more members of the family have been considered eligible for refugee status in Canada. Solutions should also be sought to avoid expulsions causing the separation of families, in the spirit of article 9 of the Convention. More generally, the Committee recommends that the Government address the situation of unaccompanied children and children having been refused refugee status and awaiting deportation in the light of the Convention's provisions. Deprivation of liberty of children, particularly unaccompanied children, for security or other purposes should only be used as a measure of last resort in accordance with article 37 (b) of the Convention.

25. The Committee suggests that the State party examine the possibility of reviewing the penal legislation allowing corporal punishment of children by parents, in schools and in institutions where children may be placed. In this regard and in the light of the provisions set out in articles 3 and 19 of the Convention, the Committee recommends that the physical punishment of children in families be prohibited. In connection with the child's right to physical integrity as recognized by the Convention, namely in its articles 19, 28 and 37, and in the light of the best interests of the child, the Committee further suggests that the State party consider the possibility of introducing new legislation and follow-up mechanisms to prevent violence within the family, and that educational campaigns be launched with a view to changing attitudes in society on the use of physical punishment in the family and fostering the acceptance of its legal prohibition.

26. The Committee recommends that the State party strengthen its efforts to ensure that children from vulnerable and disadvantaged groups, such as aboriginal children, benefit from positive measures aimed at facilitating access to education and housing. Research should be developed on the problems relating to the growing rate of infant mortality and suicide among children within aboriginal communities.

27. Finally, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report presented by Canada be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee.